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FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1930 OF 2005.

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Mr. Pankaj Vijayan for the petitioner.

Mr. Sandesh More for the respondent No.1.

Ms. Shrivastava for the respondent No.2.

Mr. D.R. More, A.P.P. for respondent-State.

CORAM: S.S. PARKAR &
ANOOP V. MOHTA, JJ.

DATED: 22ND AUGUST, 2005.

P.C.:

. Heard both sides at length.

2. This Petition has been filed seeking orders in respect of a flat which has been occupied allegedly by respondent No.1 unauthorisedly by taking forcible possession of the same after breaking open the lock. The said flat originally belonged to Seema Investments who are made accused under the provisions of the Maharashtra Protection of Interest of Depositors (In Financial

Establishments) Act, 1999 (MPID Act). The petitioner-Bank alongwith the respondent No.2 Bank also make claim to the said flat for recovery of the dues belonging to their customer to which Seema Investments had stood guarantors. The premises, in fact, are a twin flat having a common entrance. While one flat was mortgaged to the petitioner-Bank, the other flat was mortgaged to respondent No.2-Bank. Both these Banks had taken possession of the two flats mortgaged to them under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). Since Seema Investments are the accused under the provisions of the MPID Act, those flats were taken into possession by the respondent No.4 under the MPID Act. While those flats were taken possession of by respondent No.4 since they were attached under the MPID Act, the respondent No.1 had allegedly trespassed into those flats by taking forcible possession after breaking open the lock. This fact was brought to the notice of the Designated Court under the provisions of MPID

Act. Affidavits were filed by both sides, including the Banks and respondent No.1 and the matter was heard by the Trial Court. The arguments were heard for the last time on 21st June 2005 when the matter was adjourned for orders to 24th June, 2005. It is brought to our notice that since 24th June, 2005, the Judge presiding in the said Court had ceased to be the Designated Court as he was transferred from that Court and, therefore, no orders could be passed in that matter.

3. In the aforesaid circumstances, this Petition has been filed by the petitioner-Bank seeking directions, firstly that the State of Maharashtra should, through Police Inspector of the concerned Police Station, who is the Investigating Officer in the proceedings under the MPID Act, to take steps to evict respondent No.1 from the flats in question which are situated in Pinky Panorama, Khar, Mumbai, bearing Flat No.502 and also seeking compensation for wrongful occupation by respondent No.1. The direction is also sought against the Court which is having jurisdiction

under the MPID Act to dispose of the matter expeditiously.

4. As far as the prayer clause (a) is concerned, the Investigating Officer having brought it to the notice of the MPID Court on the basis of which the notice was issued to the respondent No.1 and the parties were heard, there is no question of issuing the direction as per prayer clause (a) of the Petition. So far as the claim for compensation for wrongful occupation of the flat by the respondent No.1 is concerned, the same can be considered in the proceedings before the MPID Court. As regards the last prayer i.e. directing the MPID Court to dispose of the Show Cause Notice issued to respondent No.1 is concerned, the said direction can not be issued at present as there is no Court dealing with the said matter.

5. However, at present the only direction that can be issued is that whenever the Designated Court is assigned this matter under the provisions of the MPID Act, the said Court will dispose of the matter expeditiously.

6. In the result, for the reasons given above, no order can be passed on this Petition, except that whenever any Court under the provisions of the MPID Act is assigned the matter under which the flats in question are attached under the provisions of the MPID Act, the said Court will dispose of the Show Cause Notice issued to respondent No.1 expeditiously. With the aforesaid direction, this Petition shall stand disposed of.

[S.S. PARKAR, J.]

[ANOOP V. MOHTA, J.]